BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**03.02.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.2088 of 2020
and
W.M.P(MD)No.1747 of 2020

Tvl. PCS Polyfils (P) Ltd.,
Represented by its Managing Director,
Prakash Chandra Shan ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Tuticorin – III,
Commercial Taxes Buildings,
Tuticorin. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings passed by the respondent in TIN:33065924479/2014-15, dated 16.12.2019 and to quash the same as the same is passed without issuing the mandatory Pre-Revision Notice as required under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 and also without providing us an opportunity of Personal Hearing before passing of the order and thus the impugned order was passed by grossly violating the Principles of Natural Justice and hence may direct the respondent to re-do the assessment afresh in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.K.Srinivasan

For Respondent : Mrs.S.Srimathy,
Special Government Pleader

ORDER

Mrs.S.Srimathy, learned Special Government Pleader takes notice for the respondent.

2. The petitioner has filed this writ petition challenging the impugned proceedings passed by the respondent in TIN:33065924479/2014-15, dated 16.12.2019 and to quash the same as the same is passed without issuing the mandatory Pre-Revision Notice

as required under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 and also without providing an opportunity of Personal Hearing before passing of the order and to direct the respondent to re-do the assessment afresh in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

3. The impugned order is challenged by the petitioner on the sole ground that the same was passed in violation of principles of natural justice.

4. In the reference column of the said impugned notice, it is mentioned as 'the dealer's reply dated 13.09.2019', whereas in the very same impugned order in paragraph No.6, it is stated that the dealer neither made any written objection nor submitted any material records till date. As already ample time has been to the dealer and the dealer has not made any objections till date, it is presumed that the the dealer has nothing to say in this matter and admitted the proposal and the proposal is hereby confirmed.

5. As there is an error apparent in the impugned order and admittedly, no audience was given to the petitioner, the Writ Petition is allowed and the impugned order is set aside and the matter is remitted back to the respondent for fresh consideration, after giving sufficient opportunity to the petitioner including personal hearing. The said exercise should be completed within a period of four weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

To:
The Assistant Commissioner (ST) (FAC),
Tuticorin - III, Commercial Taxes Buildings,
Tuticorin.

+1 CC to M/s.A.SATHEESH MURUGAN, Advocate (SR-4374[F] dated 03/02/2020)
+1 CC to M/s.SPL GP (SR-4543[F] dated 04/02/2020)

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JMN(14.02.2020) 2P : 4C